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FOREIGN SERVICE DESPATCH

FROM : AMEMBASSY PORT AU PRINCE

543
DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON

May 3, 1954
DATE

REF : DEBDS A-140, April 16, 1954, and EMBDES NO. 542 of May 3, 1954

For Dept. Use Only	ACTION	DEPT.
	REC'D	IN F O
5/5	ARA-4	DC/R-2 01-6 5/5-2 G-1 5/P-1 5/MSA-1 C-1
		ARMY-3 NAVY-3 AIR-3 CIA-7 OSD-2
SUBJECT:	Navassa Island.	

It may be recalled that while on consultation in the Department of State, I read up on the history of the Island of Navassa and made certain inquiries concerning it.

The referenced correspondence relative to the use of the Island of Navassa by the United States Navy has served now to crystallize certain thought that I have had on the subject.

It is my firm opinion that so long as sovereignty over the Island remains disputed, it will be relatively useless both to the United States and to Haiti.

From the Haitian point of view, I am convinced that no attempt will be made to occupy or utilize it, but that it will be the subject of discussion from time to time in more or less of a friendly atmosphere.

From the American point of view, so long as the only evidence of U. S. claims is the maintenance of the present light house, there probably will arise no special problem. However, should question arise as to other uses, such as has been proposed by the U. S. Navy, I am sure that they would be opposed by this Embassy on grounds similar to those outlined in my despatch under reference.

I suggest that to avoid this impasse, the problem should be reviewed once more.

Three alternatives are possible:

(1) To allow the status of the Island to remain under dispute, avoiding all acts which might give rise to a controversy as has been the policy to date,

(2) To assert and make good claims to U. S. sovereignty, and

(3) To relinquish U. S. claims to the Island

The first alternative has little to recommend it. It has served as a modus vivendi for almost 100 years, but has given rise from time to time to disputes and has made the problem of Navassa one of the problems of Haitian-American relations (see enclosure no. 1).

RSPolson:am
REPORTER

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The second alternative involving unilateral action to assert American sovereignty would result in immediate political repercussions in Haiti of unfortunate nature. United States-Haitian relations are and have been very good. The United States has had the cooperation of Haiti in the United Nations, in the Organization of American States and in other international organizations. The United States armed forces, particularly the Navy and, secondarily, the Air Force, have had excellent relations and cooperation from the Haitian Government and Army. The Navy has been permitted to use Haitian waters for under-water bombing, for maneuvers and for practice gunfire. Clearance for U. S. Naval vessels and for United States aircraft have been granted so easily that the clearance procedure has become almost nominal. A unilateral assertion of American sovereignty over Navassa by a positive act would embitter the Haitian Government, press and population. It would result in deterioration of excellent political relations and likely result in forfeiture of prevailing cooperation between the Haitian and United States armed forces. The international repercussions of such an act also suggest its inadvisability. It would appear that excellent propaganda could be made by the USSR and international communism if it could point out how the United States have "seized territory of a small American neighbor".

Accordingly, I have addressed my thinking toward the feasibility of the third alternative.

Renunciation of American claims to Navassa would appear to give rise to the following objectionable features (most of which have been mentioned in previous correspondence:-

- (1) It probably would encourage other nations to demand return of islands claimed by them on the basis of contiguity or history and also claimed by the United States under the Guano Act of August 18, 1856.
- (2) There is a possibility that Haiti would present a claim for \$20 - \$40,000,000 for the guano extracted in the past.
- (3) There might be question as to maintenance of the light house.
- (4) There might be question as to use of the island in case of war and for other national defense purposes.
- (5) There might be interference with the bird life on the island (the U. S. Department of Agriculture states that it is a breeding ground).
- (6) It is possible that the United States might lose some underground deposits or other resources of value.

I believe that each of these possibly objectionable features can be dealt with satisfactorily as follows:

- (1) Should the United States unilaterally and without request from the Haitian Government voluntarily decide to renounce its claims to Navassa under specified conditions, I do not see that it would

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provide a real basis for other governments to demand sovereignty over other disputed islands. The United States could make it very clear that the decision was made because of its own views, without pressure from the Haitian Government, because of lack of interest in retention of sovereignty and in view of the fact that the United States retained certain rights.

(2) Renunciation of sovereignty should be accomplished by an exchange of notes or by other formal agreement which would:

- a) specifically exclude all claims for damages
- b) provide for continued U. S. maintenance of the light house (and other aids to navigation). The Coast Guard could do this - see ARA-MID memo of February 21, 1952, prepared by Charles Hauch paragraph no. 3.
- c) provide for use of the island for the needs of hemispheric defense. This apparently is feasible - see ARA-MID Memo of April 7, 1952, prepared by Cedric C. Philipp, paragraph 4. Under such a provision, the Embassy could request use of the island for target practice as contemplated in the Department's A-140 of April 16, 1954, and it is believed that Haitian agreement would be forthcoming immediately.
- d) Similarly, bird life on the island could be protected by means of the agreement.

Thus, the United States would lose only the doubtful mineral or other natural resources of the small island.

It would retain all the supposed advantages of either direct occupation and assertion of U. S. sovereignty or continuance of the present disputed status.

In addition, however, the United States would gain the gratitude of the Haitian Government and people and provide another example of anti-imperialism.

I commend this suggestion to the most serious consideration by the Department of State.

Robert F. Davis
 American Ambassador

Enclosure:

- 1. Memorandum on
 Conflicting Claims to
 Navassa Island- U.S. and Haiti

Copy to: Captain William M. Rakow, Natal Attaché, Amembassy, Havana, Cuba

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**Enclosure no. 1 to despatch no. 543, May 3, 1954, from
 Ambassador, Port-au-Prince.**

**Memorandum on Conflicting Claims to Navassa Island -
 United States and Haiti.**

**Claims to United States sovereignty over the Island of Navassa appear to
 have the following bases:**

**1) The Act of Congress of August 18, 1856, known as the Guano
 Act, which reads in part as follows:**

**"Whenever any citizen of the United States discovers a deposit
 of guano on any island, rock or key, not within the lawful jurisdiction
 of any other government, and takes peaceful possession thereof, and
 occupies the same, such island, rock or key may at the discretion of
 the President, be considered as appertaining to the United States".
 (R.S. 5570).**

**2) Discovery of guano by Peter Duncan, an American citizen, on
 the island of Navassa on July 1, 1857, effective possession by
 Peter Duncan as of September 29, 1857, and filing of declaration of
 discovery with the State Department on December 3, 1857. (Subsequently,
 on March 15, 1858, John L. Lewis, Duncan's agent filed a declaration
 stating that he had been in peaceful, uninterrupted possession of Navassa
 since September 18, 1857).**

**3) The visit of the USS SARATOGA to Navassa in August 1858 to
 protect the American claim and the subsequent visit of the ship to
 Port-au-Prince to advise Emperor Soulouque of the American title to the
 island.**

**4) The proclamation of the United States Government of December 8,
 1859, entitled E. M. Cooper, assignee of Peter Cooper to all the
 privileges and advantages of the Act of August 18, 1856.**

**5) The decision of the United States Supreme Court in the case of
 Jones vs. the United States (137 U.S. 202).**

**6) Inclusion of the name of the island in a circular of the U. S.
 Treasury Department dated August 23, 1867, listing Guano islands
 appertaining to the United States.**

**7) Proclamation of the President of the United States dated
 January 17, 1916.**

**8) Specific denial of Haitian claims to the island or reservation
 of United States rights to the island by notes to the Haitian Government
 dated December 31, 1872, June (or July) 10, 1873, July 14, 1915,
 September 12, 1932, October 9, 1946, October 25, 1950, and January 15, 1951.**

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9) Construction in 1917 of a light house station on the island of Navassa under authority of the Act of Congress of October 22, 1913. (39 Stat. Pt. II 1763).

10) Maintenance of the light house including at times assignment of personnel for duty on the island.

11) Establishment of defense installations on the island both during World War I and World War II.

Haitian claims to sovereignty over the island apparently rest upon contiguity (adjacent island), discovery of Hispaniola by Columbus, Spanish conquest, cession of the western third of the island of Hispaniola to France by the Treaty of Ryswick, the declaration of Haitian independence in 1804, the Ordinance of 1825 issued by Charles X of France recognizing Haitian independence, the French-Haitian Treaty of 1828 by which France relinquished all claims to Haiti and peaceful uninterrupted possession of Haiti.

The claims based on historic and contiguous bases have been asserted in various ways.

1. Constitutions of Haiti prior to 1874 included "adjacent islands" as part of the national territory. Subsequent constitutions (1874, 1879, 1889, 1932, 1935, 1946 and 1950) specifically mentioned Navassa (the Constitution of 1918 omitted such mention).
2. The two Haitian naval expeditions of 1858 which landed, claimed the island and invited the American guano workers to leave (which they refused to do).
3. The refusal of Emperor Seulenque in 1852 to acknowledge the rights of the United States to the island on the occasion of the visit of the USS SARATOGA.
4. The Haitian claims appear to have been set forth in writing by the Haitian Commercial Agent at Boston in November 1858, by the Haitian Minister in Washington by Notes dated July 19, 1872 and March 19, 1873. The Haitian Government also protested in 1915 against erection by the United States of a light house on Navassa. The Haitian Government has raised the question of sovereignty over the island on April 11, 1934, by a Chamber of Deputies resolution demanding return of the island, by note of September 23, 1950 and by note of February 12, 1952, requesting reconsideration of the U. S. position relative to the island.

The great weaknesses of the Haitian claim lie in the fact that the island of Navassa is not mentioned in the Treaty of Ryswick, in the Declaration of Independence nor in any of the Constitutions prior to the American occupation of Navassa. Secondly, Haiti appear never to have been in effective occupation of the island.

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